

Title	<b>Consent of Guardian, Nomination, and Waiver of Notice</b> (revise form GC-211).
Summary	The Notice in bold text contained in a text box at the bottom of the form would be moved to a more prominent place, and other changes would be made to the language of item 4 of the form, regarding the rights that are waived by persons signing at the bottom of the form.
Source	Probate and Mental Health Advisory Committee
Staff	Douglas C. Miller, 415–865–7535, douglas.miller@jud.ca.gov
Discussion	<p>Judicial Council form GC-211, <i>Consent of Guardian, Nomination, and Waiver of Notice</i>, is a mandatory form that is used for three purposes in probate guardianships. When signed by a proposed guardian of the person or estate below item 1, it shows the guardian’s consent to act. When signed below item 3 by a parent of a minor child or by the donor of a gift to a minor child, it is the parent’s nomination of a guardian of the child’s person or estate, or the donor’s nomination of the guardian of the donee child’s estate. When signed below item 4 by a person entitled to notice of hearing on a specific petition for appointment of a guardian identified in item 4, it is the signer’s consent to the appointment of a guardian as requested in that petition, and a waiver of his or her right to receive notice of the hearing on that petition.</p> <p>This form has a box at the bottom of the form containing bold text that reads as follows:</p> <p><b>NOTICE: The guardian of the person of a minor has full legal and physical custody. Parents and other interested parties cannot terminate guardianships without a court order. Courts will not order a guardianship terminated unless it is shown to be in the minor’s best interest.</b></p> <p>This notice is primarily addressed to the persons who are asked to sign the consent and waiver of notice portion of the form below item 4. They are asked to do so at or shortly after the time someone else has filed a petition for the appointment of a guardian. They may give up significant rights if they sign the form. They may not have the same opportunity for independent legal advice that a person nominating a guardian or consenting to act as guardian might have.</p> <p>The Probate and Mental Health Advisory Committee proposes to</p>

move the notice to a more prominent place in the form, immediately above the description of the rights to be waived in item 4, and above the place for the signatures of the persons who have been asked to waive those rights. The text of the notice itself would not be revised. This change is intended to promote more intelligent, knowing waivers of the important rights described in item 4 by those who sign at the bottom of the form.

The advisory committee would also make three changes to the language of item 4. The first two changes are prompted by comments concerning the form by the authors of the Continuing Education of the Bar (CEB) practice treatise on guardianships and conservatorships. (See 1 California Guardianships and Conservatorships, at pages 405 and 414.1, Starting Guardianship Proceedings §§ 7.38, 7.47 (Cont.Ed.Bar 2001).)

The CEB treatise notes that the persons entitled to notice of hearing of the petition for appointment of guardian are also entitled to receive a copy of the petition. (Prob. Code, § 1511(a).) The treatise recommends that practitioners manually modify item 4 of form GC-211 by adding language waiving the rights to receive a copy of the petition and notice of a request for independent powers in the petition when appropriate.

The latter point is based on Probate Code section 2592(b), concerning independent powers of a guardian or conservator of the estate. Section 2592(b) requires the notice of hearing on a petition that requests these powers to identify the specific powers sought and to advise that they have been requested.

The CEB treatise also suggests that by analogy to section 2592(b), the independent powers that are authorized by Probate Code section 2108(a) for a guardian of the person nominated by will, should also be identified in a notice of hearing on a petition that requests them.

The advisory committee would address the concerns expressed in the CEB treatise by adding the words “including notice of any request for independent powers contained in it [the petition of which notice of hearing is waived].” A new sentence would also be added to the end of item 4 expressly waiving receipt of a copy of the petition.

The advisory committee would also modify the term *Notice of Hearing* in the next to last sentence of revised item 4 by eliminating its initial caps and Italics. The proper reference is to waiver of actual notice of the hearing. No reference to the Judicial Council form *Notice of Hearing* was intended.

Copies of the revised and the existing form GC-211 are attached.

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Attachments

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, state bar number, and address</i> ):   TELEPHONE AND FAX NOS.:  	<b>FOR COURT USE ONLY</b>
ATTORNEY FOR ( <i>Name</i> ): <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF ( <i>Name</i> ):  <div style="text-align: right;">MINOR</div>	
<input type="checkbox"/> <b>CONSENT OF PROPOSED GUARDIAN</b> <input type="checkbox"/> <b>NOMINATION OF GUARDIAN</b> <input type="checkbox"/> <b>WAIVER OF NOTICE AND CONSENT</b>	
CASE NUMBER:	

### CONSENT OF PROPOSED GUARDIAN

1. I consent to serve as guardian of the ☐ person ☐ estate of the minor.

Date:

..... (TYPE OR PRINT NAME)



\_\_\_\_\_  
(SIGNATURE OF PROPOSED GUARDIAN)

### NOMINATION OF GUARDIAN

2. I am ☐ a parent of the minor ☐ donor of a gift to the minor. I nominate (*name and address*):

as guardian of the ☐ person ☐ estate of the minor.

3. I am ☐ a parent of the minor ☐ donor of a gift to the minor. I nominate (*name and address*):

as guardian of the ☐ person ☐ estate of the minor.

Date:

..... (TYPE OR PRINT NAME)



\_\_\_\_\_  
(SIGNATURE)

### CONSENT AND WAIVER OF NOTICE

4. I am entitled to notice in this proceeding, but I waive *Notice of Hearing* of the petition. I consent to appointment of the guardian as requested in the *Petition for Appointment of Guardian of Minor* filed on (*date*):

		▶		
Date	..... (TYPE OR PRINT NAME)		(SIGNATURE)	..... (RELATIONSHIP TO MINOR)
		▶		
Date	..... (TYPE OR PRINT NAME)		(SIGNATURE)	..... (RELATIONSHIP TO MINOR)
		▶		
Date	..... (TYPE OR PRINT NAME)		(SIGNATURE)	..... (RELATIONSHIP TO MINOR)
		▶		
Date	..... (TYPE OR PRINT NAME)		(SIGNATURE)	..... (RELATIONSHIP TO MINOR)

☐ Continued on Attachment 4.

**NOTICE:** The guardian of the person of a minor has full legal and physical custody. Parents and other interested parties cannot terminate guardianships without a court order. Courts will not order a guardianship terminated unless it is shown to be in the minor's best interest.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):  <hr/> TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>   <b>DRAFT NO. 4</b> <b>03/28/03</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	CASE NUMBER:
GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name):	
<input type="checkbox"/> <b>CONSENT OF PROPOSED GUARDIAN</b> <input type="checkbox"/> <b>NOMINATION OF GUARDIAN</b> <input type="checkbox"/> <b>WAIVER OF NOTICE AND CONSENT</b>	CASE NUMBER:

**CONSENT OF PROPOSED GUARDIAN**

1. I consent to serve as guardian of the ☐ person ☐ estate of the minor.

Date:

 \_\_\_\_\_  
 (TYPE OR PRINT NAME)

 \_\_\_\_\_  
 (SIGNATURE OF PROPOSED GUARDIAN)
**NOMINATION OF GUARDIAN**

2. I am ☐ a parent of the minor ☐ donor of a gift to the minor. I nominate (name and address):

as guardian of the ☐ person ☐ estate of the minor.

3. I am ☐ a parent of the minor ☐ donor of a gift to the minor. I nominate (name and address):

as guardian of the ☐ person ☐ estate of the minor.

Date:

 \_\_\_\_\_  
 (TYPE OR PRINT NAME)

 \_\_\_\_\_  
 (SIGNATURE)

**NOTICE: The guardian of the person of a minor has full legal and physical custody. Parents and other interested parties cannot terminate guardianships without a court order. Courts will not order a guardianship terminated unless it is shown to be in the minor's best interest.**

**CONSENT AND WAIVER OF NOTICE**

4. I consent to appointment of the guardian as requested in the *Petition for Appointment of Guardian of Minor* filed on (date): \_\_\_\_\_. I am entitled to notice in this proceeding, but I waive notice of hearing of the petition, including notice of any request for independent powers contained in it. I waive timely receipt of a copy of the petition.

DATE	(TYPE OR PRINT NAME)	▶	(SIGNATURE)	RELATIONSHIP TO MINOR
DATE	(TYPE OR PRINT NAME)	▶	(SIGNATURE)	RELATIONSHIP TO MINOR
DATE	(TYPE OR PRINT NAME)	▶	(SIGNATURE)	RELATIONSHIP TO MINOR
DATE	(TYPE OR PRINT NAME)	▶	(SIGNATURE)	RELATIONSHIP TO MINOR

☐ Continued on Attachment 4.